

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION FOR TRANSFER OF)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY FROM MIDWEST FIBERNET INC. TO)	CASE NO. 95-467
CONSOLIDATED NETWORK INC. AND FOR)	
ASSOCIATED RELIEF)	

O R D E R

On October 20, 1995, Midwest Fibernet Inc. ("Midwest Fibernet") and Consolidated Network Inc. ("Consolidated Network") (hereinafter collectively referred to as "Joint Applicants") filed an application ("Joint Application") pursuant to KRS 278.020(4) and KRS 278.020(5) for Commission approval of the transfer of all assets of Midwest Fibernet to Consolidated Network.¹ Midwest Fibernet, an Illinois corporation and a wholly-owned subsidiary of Consolidated Network, was authorized to provide telecommunications service as a reseller in Kentucky in Case No. 90-101.²

Consolidated Network, an Illinois corporation, is a wholly-owned subsidiary of Consolidated Communications, Inc., which is in turn a holding company for several corporations that provide

¹ Joint Applicants also state that their application is submitted pursuant to KRS 278.300. However, since Joint Applicants do not seek approval of assumption of debt or issuance of securities, KRS 278.300 does not apply.

² Case No. 90-101, The Application of Midwest Fibernet Inc. for a Certificate of Public Convenience and Necessity to Provide InterLATA Interexchange Services Within Kentucky as a Non-Dominant Carrier, Order dated August 6, 1990.

telecommunications services. Consolidated Network has provided interstate telecommunications services since 1986.

The proposed transaction consists of a merger pursuant to which Midwest Fibernet will be entirely absorbed into Consolidated Network and will cease to exist. Subsequently, Consolidated Network will own all assets of Midwest Fibernet, including all property, plant, equipment, and contract rights. In addition, Consolidated Network's name will be changed to Consolidated Communications Telecom Services Inc. ("Consolidated Communications"). Joint Applicants attach, as Exhibit 3 to their Joint Application, a chart displaying the corporate structure of the Consolidated Network companies as it is proposed to exist after completion of restructuring.

Joint Applicants state that, because this is an internal corporate transaction, there is no financial consideration between Joint Applicants. Joint Applicants further state that, since Midwest Fibernet provides service in several jurisdictions, the transaction cannot be consummated unless and until all necessary regulatory approvals have been obtained. Midwest Fibernet will continue to provide uninterrupted service pursuant to its tariff until the proposed transaction is consummated.

Joint Applicants state that, after the proposed transaction has been completed, Consolidated Communications, the successor corporation to Consolidated Network, will continue to provide all telecommunications services currently provided by Midwest Fibernet pursuant to its tariff on file with the Commission. The merger,

Joint Applicants state, will have no impact on the quality of service currently provided to the public by Midwest Fibernet or on the rates charged therefor. Joint Applicants further assert that Consolidated Network possesses sufficient technical, managerial, and financial resources to provide reasonable service in Kentucky. In support of their assertion, Joint Applicants state that Midwest Fibernet shares senior management personnel with Consolidated Network, and that their continued control will ensure that managerial and technical expertise will not be adversely affected by the proposed transaction. In addition, Joint Applicants state that, since Midwest Fibernet has previously relied upon the financial resources of Consolidated Network, its parent company, to demonstrate its financial ability to provide reasonable service, a finding that Consolidated Network itself has the financial ability to provide such service is warranted. As further evidence of the sufficiency of Consolidated Network's financial resources, Joint Applicants attach, as Exhibit 6 to Joint Application, Consolidated Network's most recent financial statements, as well as consolidated balance sheets and statements of income for the years ended December 31, 1994 and 1993.

Pursuant to KRS 278.020(4), persons under the jurisdiction of the Commission are required to obtain Commission approval prior to the acquisition or transfer of ownership or control of a utility. KRS 278.020(5) prohibits any entity from acquiring control of any utility under the jurisdiction of the Commission without prior approval. KRS 278.020(5) does not apply when an acquirer is under

common control with the jurisdictional utility. However, corporate restructuring does not constitute an exception to the requirements of KRS 278.020(4). Consequently, the Commission finds that KRS 278.020(4) applies to the proposed transaction as described by Joint Applicants, and Commission approval is necessary.

The Commission finds that the proposed transaction is consistent with the public interest and that it will take place in accordance with law and for a proper purpose. The Commission further finds that the Joint Application demonstrates Communications Network possesses the financial, technical, and managerial abilities to provide reasonable service in Kentucky.

IT IS THEREFORE ORDERED that:

1. The proposed transaction as described by the Joint Applicants is hereby approved.

2. Joint Applicants shall notify the Commission within 10 days of the date of consummation of the proposed transaction or, in the alternative, shall notify the Commission if the proposed transaction does not occur.

3. Service provided immediately subsequent to the consummation of the proposed transaction shall be provided pursuant to the tariff of Midwest Fibernet Inc. currently on file with the Commission.

4. Within 10 days of the consummation of the proposed transaction, the acquirer shall file with the Commission an adoption notice pursuant to 807 KAR 5:011, Section 11 wherein it adopts, ratifies, and makes said tariff its own.

5. Within 10 days after the filing of the adoption notice, the acquirer shall file in its own name the tariff of Midwest Fibernet Inc., or such other tariff as it proposes to put into effect in lieu thereof.

6. Within 10 days of the proposed name change of Consolidated Network Inc. to Consolidated Communications Telecom Services Inc., Consolidated Communications Telecom Services Inc. shall file with the Commission all amendments to its articles of incorporation pursuant to which such change was effected.

Done at Frankfort, Kentucky, this 30th day of November, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director